

Serial No. 10/665,530
Reply to Office Action dated March 16, 2006

Docket No. MEMS-0178-US

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REMARKS/ARGUMENTS

Favorable reconsideration and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. Claims 15-27 are pending in the application.

Claim Objections

Claims 24-26 were objected to because of informalities. Each of the informalities identified in the Office Action has been addressed in this Amendment. Applicant accordingly requests the Examiner to reconsider and withdraw these objections.

The foregoing claim amendments to address the claim objections were made to correct formalities such as grammatical errors and to place the present Application in better form for examination. Therefore, the foregoing amendments do not narrow the scope of the pending claims. Since these amendments merely address formalities including those suggested by the Examiner, entry of these amendments is appropriate and requested.

35 U.S.C. § 102 & 103 Rejections

Claims 15-16, 18 and 20-25 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Chui et al. (U.S. Patent No. 7,006,426, "Chui"). Claim 17 and 26-27 were rejected under 35 U.S.C. § 103 (a) as allegedly being unpatentable over Chui. Claim 19 was rejected under 35 U.S.C. § 103 (a) as allegedly being unpatentable over Chui in view of Hafner et al. (U.S. Patent No. 6,716,409, "Hafner"). Applicant respectfully traverses each of these rejections for at least the following reasons.

Serial No. 10/665,530
Reply to Office Action dated March 16, 2006

Docket No. MEMS-0178-US

Reply to Examiner's Response to Arguments

Since the Examiner has maintained the prior rejections and has provided arguments in support of this position, Applicant will address the Examiner's response first.

The Examiner has referenced Chui as teaching all the features of Applicant's claimed features in regard to claim 15. For example, the Examiner has alleged in the Final Rejection that "there are multiple optical elements "12" attached to the mounted system of Chui et al '426 and therefore one of the optical elements is the reference element and the others are the "at least first optical elements". However, Applicant respectfully submits that this is not taught by Chui and that element 12 cannot be both the alleged reference optical element and the first optical element.

Regarding element 12, Chui expressly discloses the following:

Referring specifically to FIG. 1, a clear glass wafer 10 is shown with multiple lens elements 12 therein, the lens elements having been defined by etching away portions of the wafer. Before the lens elements 12 are etched to arrive at the configuration shown in FIG. 1, certain surface features are formed, as described below in connection with FIG. 3. In particular, each element 12 has a slot 14 that preferably extends halfway down through the element to enable formation of a reflective surface therein. The elements 12 are supported as part of the etched wafer 10 by vertical glass rods 16 that remain after portions of the wafer have been etched out.

Clearly the multiple lens elements 12 are related to the manufacture of the lens elements 12, not the combination of element 12 and 22. Chui further state regarding the combination of elements 12 and 22:

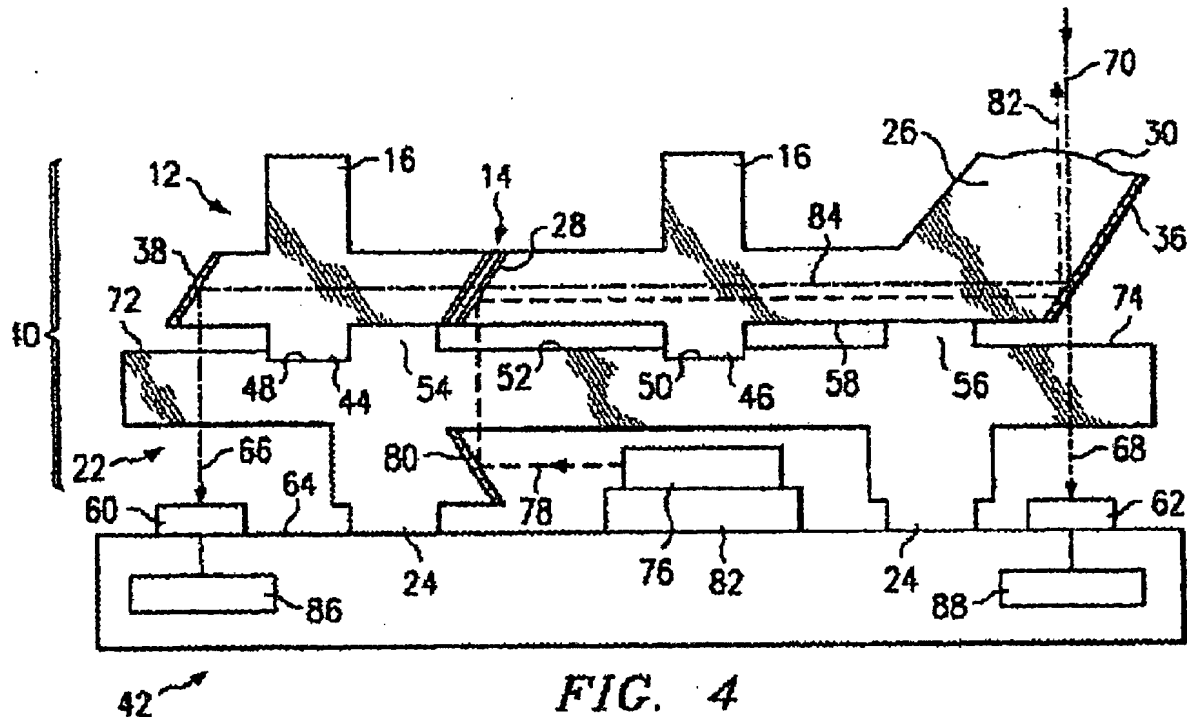
Referring to FIG. 4, a side view of an assembled optical unit 40 is shown supported by a semiconductor chip 42, which functions as an electro-optical interface for the optical unit 40. The optical unit 40 and chip 42 together define an electro-optical device for reading an optical disc (not

Serial No. 10/665,530
Reply to Office Action dated March 16, 2006

Docket No. MEMS-0178-US

shown). The optical unit 40 includes a lens element 12 mounted on a base element 22 in the manner indicated.

This arrangement is specifically illustrated in Fig. 4, which is reproduced below.



Clearly from the foregoing, there is no teaching or suggestion to add an additional element 12 so that "one of the optical elements is the reference element and the others are the 'at least first optical elements'", as alleged in the Final Office Action. Instead, element 12 forms part of an optical unit for reading optical disks as illustrated in Fig. 4 above. Adding the additional structures as suggested would render the device useless. Accordingly, Chui clearly does not disclose "the identical invention ... in as complete detail as is contained in the ...claim", as is required under 35 U.S.C. § 102.

Serial No. 10/665,530

Docket No. MEMS-0178-USReply to Office Action dated March 16, 2006

As stated in MPEP § 2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The Chui reference applied by the Examiner neither expressly nor inherently describes every feature of Applicant's claimed combinations as detailed in the foregoing arguments. Therefore, Applicant respectfully submits that the applied reference does not anticipate Applicant's claimed combinations as alleged by the Examiner.

SUMMARY

Since the Examiner has maintained his rejection of claims 15-27 under 35 U.S.C. § 102 and 103, as noted above, Applicant once again traverses these rejections. Applicant expressly maintains the reasons from the prior responses to clearly indicate on the record that Applicant has not conceded any of the previous positions relative to the maintained rejections. For brevity, Applicant expressly incorporates the prior arguments presented in the September 18, 2006 response without a literal rendition of those arguments in this response.

For at least the foregoing reasons and the reasons, it is respectfully submitted that independent claim 15 is distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims recite additional

Serial No. 10/665,530
Reply to Office Action dated March 16, 2006

Docket No. MEMS-0178-US

subject matter, which is not suggested by the documents taken either alone or in combination.


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Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,
McGrath, Geissler, Olds & Richardson, PLLC



Mark E. Olds
Registration No. 46507

PO BOX 1364
Fairfax, VA 22038-1364
1.703.621.7140

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